

**CITY OF CORAL GABLES, FLORIDA**

**RESOLUTION NO. 2022-284 (AS AMENDED)**

A RESOLUTION OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA APPROVING MIXED-USE SITE PLAN AND CONDITIONAL USE REVIEW PURSUANT TO ZONING CODE ARTICLE 14, "PROCESS" SECTION 14-203, "CONDITIONAL USES," FOR A PROPOSED MIXED-USE PROJECT ON THE PROPERTY LEGALLY DESCRIBED AS LOTS 36 THROUGH 43, BLOCK 5, "INDUSTRIAL SECTION" (4311 AND 4225 PONCE DE LEON BOULEY ARD), CORAL GABLES, FLORIDA; INCLUDING REQUIRED CONDITIONS; PROVIDING FOR A REPEALER PROVISION, SEVERABILITY CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, an Application was submitted requesting conditional use with site plan review to allow a mixed-use project on property zoned Mixed-Use 2 District legally described as Lots 36 through 43, Block 5, "Industrial Section" (4311 and 4225 Ponce de Leon Boulevard), Coral Gables, Florida; and

**WHEREAS**, the Application has been submitted concurrently with an application for Conditional Use for use of Remote Parking; and

**WHEREAS**, the Application requires City of Coral Gables conditional use with site plan review and public hearing consideration pursuant to the Zoning Code Article 14, "Process," Section 14-203, and Article 2, "Zoning Districts," Section 2-201; and

**WHEREAS**, after notice of public hearing duly published and notifications of all property owners of record within one-thousand (1,000) feet, a public hearing was held before the Planning and Zoning Board of the City of Coral Gables on October 12, 2022, at which hearing all interested persons were afforded the opportunity to be heard;

**WHEREAS**, at the Planning and Zoning Board's October 12, 2022 meeting, the Board recommended approval regarding the proposed conditional use site plan (vote: 6-0) subject to conditions of approval, including utilizing the \$125,000 contribution towards the beautification of Ponce de Leon Boulevard within the Design & Innovation District;

**WHEREAS**, after notice of public hearing duly published and notifications of all property owners of record within one-thousand (1,000) feet, a public hearing was held before the City Commission on November 9, 2022, at which hearing this item was presented and all interested persons were afforded the opportunity to be heard;

**WHEREAS**, the City Commission on November 9, 2022, approved the requested conditional use with site plan; and,

**WHEREAS**, public hearings have been completed as indicated herein by the Coral

Gables City Commission in consideration of a request for conditional use with site plan review as required by the Zoning Code, and including careful consideration of written and oral comments by members of the public;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF CORAL GABLES THAT:**

**SECTION 1.** The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of the Resolution upon adoption hereof.

**SECTION 2.** The proposed conditional use with site plan review for a mixed-use project on property zoned Mixed-Use 2 District legally described as Lots 36 through 43, Block 5, “Industrial Section” (4311 and 4225 Ponce de Leon Boulevard), Coral Gables, Florida, shall be and is hereby approved subject to all of the following conditions:

- 1. Application/supporting documentation.** Construction of the proposed project shall be in substantial conformance with all of the following:
  - a. The Applicant’s submittal package to PZB prepared by Greenberg Traurig and Arquitectonica to include:
    - i. Maximum building height shall not to exceed 109’ feet and 8 stories.
    - ii. 3.48 FAR (69,709 sq. ft.)
    - iii. 3 multi-family units with the ability to convert said units to commercial space subject to compliance with applicable Zoning Code regulations.
    - iv. 81 parking spaces on-site; 123 remote parking spaces (incl. 25% minimum payment-in-lieu)
    - v. 2,565 sq. ft. (12.8%) open space, on-site and within the right-of-way
  - b. All representations proffered by the Applicant’s representatives as a part of the review of the Application at public hearings.
  
- 2. Restrictive covenant.** Within thirty (30) days of City Commission approval of the Application, the Applicant, property owner(s), its successors or assigns shall submit a restrictive covenant for City Attorney review and approval outlining all conditions of approval as approved by the City Commission. Failure to submit the draft restrictive covenant within the specified time frame shall render the approval void unless said time frame for submittal of the draft restrictive covenant is extended by the City Attorney after good cause as to why the time frame should be extended. It is recognized that the requirements contained in the restrictive covenant constitute regulatory conditions of approval and shall survive as regulatory conditions of approval even if the restrictive covenant is later found to be void or unenforceable.
  
- 3. Prior to issuance of the first Building Permit, Applicant shall:**
  - a. **Final Remote Parking Application.** Prior to the issuance of the first Building Permit, the Applicant shall either:
    - i. Present the Development Services Director with the complete Remote Parking application in compliance with the requirements of Section 10-109 of the Zoning Code and include a minimum of the following: 1) A survey showing the exact

- location, traffic flow, and current physical layout of the proposed remote parking spaces; 2) Documentation and sworn affidavits from the owner of the remote parking spaces certifying spaces are in excess of those parking spaces required to serve any onsite development; 3) An executed lease, or similar legal instrument, for the required remote parking spaces subject to approval by the City Attorney; and 4) The corresponding public benefit contribution via payment-in-lieu of 25% of the total required 204 parking spaces; or
- ii. Present the Development Services Director with the complete Remote Parking application in compliance with the requirements of Section 10-109 of the Zoning Code and include a minimum of the following: 1) A survey showing that the exact location, traffic flow, and current physical layout of the proposed remote parking spaces will be at a parking garage in the Village of Merrick Park; 2) Documentation from the City certifying that Applicant is leasing a portion of the 400 spaces controlled by the City in the lease with the Village of Merrick Park; 3) An executed lease or similar legal instrument with the City, in its propriety capacity, for the required remote parking spaces subject to approval by the City Attorney; and 4) The corresponding public benefit contribution via payment-in-lieu of 25% of the total required 204 parking spaces plus \$10,000 for each space being leased at the Village of Merrick Park.
  - iii. If the Applicant is unable to secure the required Remote Parking via one of the above-referenced options, a payment-in-lieu for the total required remote parking spaces shall be provided in accordance with the current regulations in Chapter 74 of the City Code.
- b. **Impact Fees.** The Applicant shall include the payment of all applicable City of Coral Gables impact fees, sewer capacity fees, including a cost reimbursement proportional to the project's share of the sewer flows, to the Joint Users as described in the Merrick Manor project's Sewer Improvement Agreement, and in accordance with Section 78-103 of the City Code, as well as service charges prior to the issuance of a building permit. No impact fee shall be waived.
  - c. **Art in Public Places.** Applicant shall provide a complete and notarized copy of the Project Value Application to the City. Prior to the issuance of the first Building Permit, applicant must make the required contribution to the appropriate Art in Public Places fund or receive approval for a waiver in accordance with the requirements of Article 9-103(B).
  - d. **On-street parking.** Payment shall be provided by Applicant, its successors or assigns according to established City requirements for the loss of any on-street parking space as a result of the project.
  - e. **Signage.** Provide a Signage Plan indicating code compliant size and location of all proposed exterior signage.
  - f. **Ground Floor Design.** The ground floor of all sides of all buildings, including the Pedestrian Paseo, shall continue to be designed to optimize pedestrian activity and access.
  - g. **Construction Staging.** A construction staging plan shall be submitted to the Building Division. A checklist of requirements shall be provided upon request. Construction phasing/staging shall maintain pedestrian access and circulation along Phone de Leon Boulevard with sidewalks to remain open throughout construction.
  - h. **Off-site and Public Realm Improvements Contribution:** The Applicant shall contribute \$125,000 toward Open Space enhancements in addition to the required impact fees. Funds shall be spent on improvements to Ponce de Leon Boulevard within the Design &

- Innovation District, such as pedestrian crosswalks, bicycle routes, and other upgrades to be approved by the Directors of Public Works, Parking, and Planning and Zoning.
- i. **Encroachment Plan.** Obtain Commission approval by resolution of an Encroachment Plan addressing special treatment sidewalks, decorative pavers, landscaping, irrigation, street lighting, landscaping lighting and any other encroachments into, onto, under and over the right of way as shown in the site plan. The above encroachments must be approved by City resolution and a Hold Harmless agreement must be executed approving the encroachments.
  - j. **Encroachment Agreement and Covenant.** Execute and record a restrictive covenant regarding encroachments and utilities in, below and above the public rights-of-way, in a form acceptable to the Public Works Director, the Risk Management Division, and the City Attorney, which shall include the precise locations and dimensions of the proposed areas of all encroachments. It is recognized that the requirements contained in the restrictive covenant constitute regulatory conditions of approval and shall survive as regulatory conditions of approval even if the restrictive covenant is later found to be void or unenforceable.
  - k. **Bond to Restore Project Property.** Provide to the City a surety bond, or other form of security deemed acceptable by the City, covering the estimated maximum cost of the full restoration of the Property, including installation of sod and landscaping to City Code standards, and removal of all construction fencing.
  - l. **Construction Notices.** Provide written notice to all properties within one thousand (1,000) feet of the project boundaries providing a specific liaison/contact person for the project including the contact name, contact telephone number and email, to allow communication between adjacent neighbors or interested parties of construction activities, project status, potential concerns, etc.
  - m. **Loading Operation and Valet Parking Plans.** Submit a Loading Operation Plan and Valet Parking Plan that ensures that service vehicles will not impact adversely free movement of vehicles along SW 39<sup>th</sup> Avenue to be reviewed and approved by the Directors of Public Works and Parking.
4. **Prior to issuance of the first Certificate of Occupancy or Temporary Certificate of Occupancy, Applicant shall:**
- a. **Sustainability Certification.** The developer/owner/contractor shall provide the City with a performance bond, cash or irrevocable letter of credit payment (Green Building Bond) in the amount of three (3%) percent of the master building permit construction cost value.
  - b. **Underground overhead utilities.** Submit all necessary plans and documents and complete the undergrounding of all utilities along all public rights-of-way surrounding and adjacent project boundary, subject to review and approval by the Directors of Public Works, Landscape Services and Planning and Zoning.
  - c. **Utility Upgrades.** Water and Sewer system upgrades and all associated right-of-way improvements may be required at the Applicant's expense.
  - d. **Art in Public Places.** The Applicant shall comply with all City requirements for Art in Public Places. The Applicant may comply with this section by contributing the corresponding Art in Public Places fee for the acquisition or commission of artwork for another project located within the Design and Innovation District subject to approval of the artwork by the City Commission. The City and Applicant shall enter into an Escrow Agreement and place the corresponding Art in Public Places fee into an escrow account prior to the issuance of a building permit.

- e. **Bicycle / Pedestrian Plan.** The pedestrian paths and crosswalks across Ponce de Leon Boulevard shall comply with the City's Bicycle Pedestrian Master Plan, to be reviewed and approved by the Public Works and Planning Directors. All driveways shall be designed with a flare-style curb cut with a continuous and level sidewalk through each driveway.
- f. **Right-of-way and public realm improvements.** Install all right-of-way improvements and all landscaping, public realm and streetscape improvements identified on the Applicant's approved plans, as well as the milling and resurfacing to the centerline of Ponce de Leon Boulevard abutting to the project, including the entire north intersection of San Lorenzo Avenue and Ponce de Leon Blvd, and to the centerline of San Lorenzo Avenue between Ponce de Leon Blvd and SW 39th Avenue, subject to review and approval by the Directors of Public Works, Landscape Services, Planning and Zoning, and Parking. Any changes to and departures from the right-of-way and public realm improvements identified on the Applicant's approved plans and associated detail plans and specifications via the permitting process shall be subject to review and approval by Directors of Public Works, Landscape Services, Planning and Zoning, and Parking.
- g. **Signal Retiming.** As recommended in the Traffic Study completed by Caltran, coordinate with Miami-Dade County Traffic and Signal Division for signal retiming of the northbound approach of Bird Road and Ponce de Leon Boulevard, as well as the southeast approach at Ponce de Leon Boulevard and US-1.

**5. Following issuance of the first Certificate of Occupancy, Applicant shall:**

- a. **Sustainability Certification.** Within two years of the issuance of a Final Certificate of Occupancy, the building must achieve LEED Silver or equivalent certification. If the applicant chooses to pursue NGBS Silver Certification, an Energy Star Label will also be required within two years of the Final Certificate of Occupancy.
  - i. The City will hold the Green Building Bond for the time necessary for the green certification, or equivalent, to be issued for twenty-four (24) months after issuance of the Certificate of Occupancy or Completion; whichever occurs first. Upon receiving final documentation of certification from the developer/owner/contractor, the City shall release the full amount of the bond within thirty (30) days.
  - ii. If the developer/owner/contractor is unable to provide proof of green certification, or equivalent, within twenty-four (24) months after issuance of the Certificate of Occupancy or Completion, the full amount of the Green Building Bond shall be forfeited to the City. Any proceeds from the forfeiture of the bond under this section shall be allocated toward funding Sustainability Master Plan initiatives.
- b. **Traffic Monitoring.** At the Applicant's expense, the City shall perform an annual traffic monitoring study for three years beginning one year from the issuance of the first Temporary Certificate of Occupancy at locations to be determined by the Public Works Director. If the Public Works Director determines that livability improvements are warranted on any of these roadways, the Applicant shall construct or pay for any physical livability improvements required by these studies within one year of the completion of these studies, as approved by the Public Works Director.
- c. **Pedestrian Paseo.** The Pedestrian Paseo shall be accessible at all times. Gates, fencing or enclosures of any kind are prohibited. All open spaces and any associated furniture and amenities shall be maintained by the applicant or their successor in perpetuity.

**SECTION 3.** That the applicant shall further be required to comply with all applicable

zoning regulations and any changes to the application herein granted shall be in conformance with the requirements of Zoning Code Section 14-203.10, "Changes to conditional use approvals."

**SECTION 4.** This development permit by the City of Coral Gables does not in any way create any right on the part of an applicant to obtain a permit from a county, state or federal agency. Likewise, this development permit does not create any liability on the part of the City of Coral Gables for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a county, state or federal agency, or if the applicant undertakes actions that result in a violation of county, state or federal law. In addition, as a condition of this approval, all county, state and federal permits must be obtained before commencement of the development.

**SECTION 5.** That this Resolution shall become effective upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS NINTH DAY OF NOVEMBER, A.D., 2022.

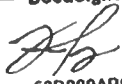
(Moved: Anderson / Seconded: Mena)

(Yeas: Fors, Jr., Mena, Menendez, Anderson, Lago)

(Unanimous: 5-0 Vote)


(Agenda Item: F-8)

APPROVED:

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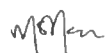
VINCE LAGO  
MAYOR

ATTEST:

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BILLY Y. URQUIA  
CITY CLERK

APPROVED AS TO FORM  
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MIRIAM SOLER RAMOS  
CITY ATTORNEY